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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/804,480

03/19/2004

Roger K. Richter

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05/19/2009

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EXAMINER

HOLDER, ANNER N

ART UNIT

PAPER NUMBER

2621

NOTIFICATION DATE

DELIVERY MODE

05/19/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/804,480	Applicant(s) RICHTER ET AL.	
	Examiner ANNER HOLDER	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-68 and 71-72 is/are allowed.
- 6) ☒ Claim(s) 1, 18, 21 and 69 is/are rejected.
- 7) ☒ Claim(s) 2-17, 19-20, and 70 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments filed 04/15/09 have been fully considered but they are not persuasive. As to Applicant arguments regarding 35 U.S.C. 101 pages 38-43 the Examiner respectfully disagrees. It is the office position that the steps provided within the method claims are not required to be preformed by a particular machine or apparatus. Further it is the office position that a mere manipulation of data - for example data transformation from digital to analog is not equivalent to the physical transformation as required by *In re Bilski*. The data signal starts out as an electromagnetic wave and remains as such after processing.

2. Applicant's arguments see page 43-45, filed 04/15/09, with respect to claims 1-72 have been fully considered and are persuasive. The rejection of claims 1-72 has been withdrawn.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/15/09 has been entered.

Claim Rejections - 35 USC § 101

4. Claim(s) 1, 18, 21, and 69 is/are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent and

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recent Federal Circuit decisions indicate that a statutory “process” under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example the method for providing multiple images for transmission across an analog interface including the steps of “receiving”, “creating”, “merging” and “providing” is of sufficient breadth that it would be reasonably interpreted as a series of steps completely performed mentally, verbally, or without a machine. The Applicant has not tied the method for providing multiple images for transmission across an analog interface including the steps of “receiving”, “creating”, “merging” and “providing” to a particular apparatus to perform the method as claimed.

The Applicant has provided no explicit and deliberate definitions of “receiving”, “creating”, “merging” and “providing” to limit the steps to the electronic from of the method, and the claim language itself is sufficiently broad to read on a printout, mentally stepping through the § 101 analysis.

1[1] *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

2[2] *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008).

Allowable Subject Matter

5. Claims 33-68 and 71-72 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter: The cited prior art does not teach the Applicant's claimed invention of converting said common digital image data output stream into an analog image output stream; and providing said analog output image stream for transmission across said analog interface; wherein said at least one analog interface is a video analog transmission interface; and wherein said step of creating at least two digital image data streams comprises at least one of the following steps preformed prior to said step of merging said at least two digital image data streams; segmenting an image of said at least one digital image data input stream into multiple segment that each correspond to one of said at least two digital data streams, and inserting alignment data into one or more of said multiple segments; portion of the image represent segments which are selected, combined and aligned primary image and secondary images or extracting at least one portion of an image frame of said at least one digital image data input stream to form a windowed partial image corresponding to one of said at least two digital image data streams, providing multiple possible available frame rates for each of said at least two digital image data streams, and adapting a frame rate of at least one of said at least two digital data streams to one of said multiple possible available frame rates to match the bandwidth characteristics of said analog interface to allow the transmission of desired amount of image information within the bandwidth of said analog interface; or combination thereof.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANNER HOLDER whose telephone number is (571)270-1549. The examiner can normally be reached on M-Th, M-F 8 am - 3 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anner Holder/

Examiner, Art Unit 2621

/Tung Vo/

Primary Examiner, Art Unit 2621